LEGISLATIVE SERVICES AGENCY OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301 Indianapolis, IN 46204 (317) 233-0696 http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6337

NOTE PREPARED: Dec 4, 2003

BILL NUMBER: HB 1001

BILL AMENDED: Dec 2, 2003

SUBJECT: Property Tax Relief.

FIRST AUTHOR: Rep. Crawford BILL STATUS: 2nd Reading - 2nd House

FIRST SPONSOR: Sen. Borst

FUNDS AFFECTED: X GENERAL IMPACT: State & Local

X DEDICATED FEDERAL

Summary of Legislation: (Amended) This bill makes several changes to the property tax system.

Bond Bank Investments: The bill authorizes investment of state funds, including the Common School Fund, in certain obligations of the Indiana Bond Bank.

DLGF Takeover of Assessment: The bill authorizes the Department of Local Government Finance (DLGF) to take over the 2003 general reassessment process (including the equalization study) in a county if the county's equalization study was not submitted to the Department before October 20, 2003, or if the DLGF determines that the county's reassessment is likely to be inaccurate.

Three Appraisal Methodologies for Rental Properties: The bill requires the property tax liability payable in 2006 and thereafter on residential rental properties that have more than 4 rental units to be computed using the lowest assessed valuation determined by applying each of the following appraisal techniques: (1) cost approach; (2) sales comparison approach; and (3) income capitalization approach. The bill provides that the gross rent multiplier method is the preferred method for valuing rental properties that have fewer than 5 rental units and mobile homes.

Electronic Submittal of Sales Disclosure Forms: The bill provides that after December 31, 2004, the sales disclosure forms and data forwarded by local assessors to DLGF and the Legislative Services Agency (LSA) must be provided in electronic format.

Installment Payments and Penalty Waivers: With respect to property taxes payable on homesteads, and upon petition of the county fiscal body, the county auditor, and the county treasurer, the bill authorizes DLGF to:

(1) establish a schedule of installment payments for taxes payable in 2004 or thereafter; or (2) waive late payment penalties for taxes payable in 2004.

Maximum Tax Rates: For property taxes and special benefits taxes payable after 2003 and based on the most recent general reassessment, the bill adjusts maximum rates that were not adjusted for taxes payable in 2003. It also provides for an adjustment of the maximum rate each time an annual assessed value adjustment or a general reassessment takes effect.

Maximum Levies: The bill eliminates the banking of unused levy allowances in calculating the maximum permissible property tax levy for a civil taxing unit, for a county Family and Children property tax levy, and for a county Children's Psychiatric Residential Treatment Services property tax levy.

Certified Assessed Value: This bill also eliminates authority to adjust assessed values to reflect the effects of appeals of assessments. The bill permits a civil taxing unit or school corporation to file a property tax appeal before December 31 (instead of September 20) for relief from a shortfall resulting from the use of erroneous assessed values or the payment of refunds.

Appeal Process: The bill provides that the initial step in the appeal of property assessment is a written request by the taxpayer for a preliminary conference with a county or township assessing official. The written request need not be on a DLGF form. Notwithstanding a property assessment agreed to by the township assessor and the taxpayer in resolution of an appeal to the county property tax assessment board of appeals, the bill permits the board to determine its own assessment under its authority to assess property for the current year. The bill allows, for the assessment dates in 2003 and 2004, an appeal of a real property assessment that is filed within 45 days after a taxpayer receives the tax statement based on the assessment for the preceding year.

Automatic Refunds for Successful Appeals: The bill eliminates the requirement for a taxpayer to file a claim for refund after a successful assessment appeal.

Elimination of Appeal for Alternate Use of CAGIT PTRC: The bill eliminates the property tax appeal provision that permits local units to reallocate CAGIT property tax replacement credits for a purpose other than property tax relief.

Levy Excess Fund: The bill provides for deposit in a taxing unit's Levy Excess Fund of property tax collections in excess of 100% (instead of 102%) of the unit's levy.

Approval of Appointed Library Board Levies: With respect to the review of budgets and levies of taxing units that have a governing body comprised primarily of appointed members and propose to increase their property tax levies by more than 5%, the bill adds library districts to the entities subject to review and authorizes reduction of the proposed levy to an amount that is less than the maximum permissible levy.

Provisional Property Tax Statements: The bill allows counties to issue provisional tax statements if the abstract is not delivered in a timely manner. The DLGF is authorized to waive the provisional tax statement requirement under certain circumstances.

Qualifications of Assessors: The bill provides that county assessors, township assessors, and trustee assessors who do not meet certain certification requirements forfeit their offices. The bill also requires DLGF to give the examinations for certification in an open book format.

Validation of Actions Taken by the DLGF: The bill also legalizes and validates any action taken by DLGF before January 1, 2004, to extend the deadline for filing an assessment appeal to the county, to allow the payment of property taxes in installments, or to waive a late payment penalty.

Deduction/Credit Filing Extension: It also permits an individual who was eligible for but did not apply for a Homestead Credit or certain property tax deductions for taxes payable in 2004 to apply on or before December 15, 2003.

Assessment Software: The bill requires DLGF to study the feasibility of creating uniform and common computer software programs for property tax assessment purposes, including computer software programs that allow the sharing and transfer of assessment data in a uniform format by the state and all counties.

Taxpayer Notice: The bill also requires, for property taxes payable on homesteads in 2004, DLGF to provide each county treasurer with the wording of a statement of the amount by which the property taxes in the county were reduced by actions of the General Assembly to mitigate the effects of the general reassessment. It also requires the county treasurer to include the statement with each tax statement mailed or otherwise transmitted.

Special Masters: This bill provides for special masters to hear appeals to the Indiana Board of Tax Review.

Petition and Remonstrance: The bill requires the State Board of Accounts to design a standard form of the petition that is used to initiate the petition and remonstrance procedure. The bill provides that the petition requires the signatures of the lesser of 100 or 5% of the property owners in the political subdivision (instead of 250 or 10%). It also prohibits a political subdivision (including a school corporation) from taking certain actions to promote a position on a petition for or remonstrance against a bond issue or lease. It also prohibits a person from soliciting or collecting signatures for a petition or remonstrance on property owned by the political subdivision

Property Tax Study: The bill requires the Commission on State Tax and Financing to study elimination of property taxes and alternative sources of revenue.

Homeowner's Property Tax Deduction: The bill increases the cap on the income tax deduction for property taxes paid on a principal place of residence for homeowners who pay property taxes imposed for the March 1, 2002, or January 15, 2003, assessment dates in 2004.

Effective Date: Upon passage; May 8, 2003 (retroactive); May 10, 2003 (retroactive); July 1, 2003 (retroactive); January 1, 2004; March 1, 2004; July 1, 2004.

Explanation of State Expenditures:

DLGF Takeover of Assessment: If the Department of Local Government Finance (DLGF) orders a state-conducted reassessment, the DLGF must assume the duties of the county's reassessment officials. Before assuming the duties, the DLGF must transmit a copy of the order requiring a state-conducted reassessment to the county's reassessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the DLGF's actions must be published in a newspaper of general circulation in the county. However, the DLGF is not required to conduct a public hearing. Township and county officials in a county must provide access to all data, records, maps, etc., at no cost to the Department.

The DLGF may enter into a contract with a professional appraising firm to conduct a reassessment. If a county or township has already entered into a contract with a professional appraising firm to conduct the reassessment, the contract must be treated as a contract of the DLGF. After receiving the report of assessed values from the appraisal firm acting under a contract, the DLGF must give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice is subject to appeal by the taxpayer and must include the taxpayer's rights. The DLGF must forward a bill for service provided under contract to the county auditor. The Commissioner of the Indiana Department of Administration, the Director of the Budget Agency, and the Attorney General have seven days to review and act on a contract of the Department.

If the DLGF or the contractor find that the land values determined for the county do not reflect the true tax value of land, the DLGF or the contractor must determine land values. The DLGF or the contractor must notify the county's reassessment officials of the land values.

A contractor may notify the DLGF if a county fails to pay the bill. The DLGF must verify the accuracy of the contractor's assertion and provide to the Treasurer of State the DLGF's approval of the contractor's bill. Upon receipt, the Treasurer of State must pay the contractor from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the Property Tax Replacement Fund (PTRF) or distribution of admissions taxes or wagering taxes. Money from the PTRF must be withheld first.

The above provisions expire January 1, 2007.

The contractor may be required in the contract to represent the DLGF in appeals and to afford the taxpayer an opportunity to attend an informal hearing. After the hearing, the contractor forwards recommendations pertaining to assessment changes to the DLGF. A taypayer must initiate the informal hearing by notifying the DLGF not later than 45 days after the DLGF gives notice to the taxpayers of the amount of the reassessment. The DLGF must send the results of the hearing to the taxpayer, the county auditor, the county assessor, and the township assessor. If the Department does not send the notice within 270 days, the DLGF may not change the amount of the reassessment and the taxpayer may appeal the reassessment. The DLGF may adopt emergency rules to implement the above.

The DLGF or contractor may petition the Indiana Tax Court to order local assessing officials to provide information. The Tax Court may order the official to provide information.

The overall impact of the above provisions is indeterminable and will depend on the number of counties for which a state-conducted reassessment is ordered. The DLGF may order a state-conducted reassessment in the county if (1) the county does not submit the county's equalization study to the Department before October 20, 2003; or (2) the DLGF considers the reassessment work of a county's reassessment officials inaccurate and flawed. According to the October 23, 2003, Reassessment Status Report, 87 counties had submitted their equalization studies to the DLGF. By November 13, 2003, data, 89 counties indicated that equalization studies were complete. Based on this data, three counties (Noble, Brown, and Lawrence) could be subject to a state-conducted reassessment. It is unknown how many counties would be subject to a state-conducted reassessment based on the quality of the local reassessment.

Based on information received as of November 2002, costs for reassessment for counties ranged from \$47,800 (Union County) to \$20 M (Lake County). (Data for Marion County was unknown.) Average reassessment costs equaled about \$655,000 (excluding the \$20 M costs incurred by Lake County and excluding Marion County). Generally, the bill should increase administrative expenses for the DLGF;

however, reassessment costs will be paid from county funds.

Three Appraisal Methodologies for Rental Properties: The DLGF would be permitted to adopt rules for assessors to use in the application of the income capitalization and gross rent methods of assessment.

Electronic Submittal of Sales Disclosure Forms: P.L. 6-1997, Sec. 26, required the county assessor or the township assessor in a county with a consolidated city to forward sales disclosure information to the State Board of Tax Commissioners (now the Department of Local Government Finance). The DLGF receives about 200,000 submissions a year from local units. However, the information is submitted in a printed format. In order to analyze the information, the DLGF would have to input the data into their computer system. Currently, the information is stored in a warehouse. Electronic submission would allow the DLGF to conduct analyses without having the administrative expenses associated with inputting the data. P.L. 245-2003, effective July 1, 2003, required assessors to forward sales disclosure information to the Legislative Services Agency (LSA). However, as of October 2003, LSA has not received any sales disclosure data in either printed or electronic format.

Installment payments and penalty waivers: Regarding waivers of late penalties, the DLGF must prescribe the form of the petition and indicate information necessary for the petition to waive late payment penalties on property taxes on real property resulting from increases of a percentage determined by the county treasurer. As a result of this bill, the DLGF will receive petitions from county treasurers asking for a waiver of all or part of the penalty imposed on late property taxpayers. The DLGF must also notify county treasurers of the DLGF's decision on the petition not later than 30 days after the receipt of the petition. The DLGF should be able to absorb any additional administrative costs resulting from these responsibilities given its current resources and budget.

Regarding the payment of property taxes in installments, under the proposal and under certain circumstances, the county treasurer may petition the DLGF to establish a schedule of installments with respect to one or more classes of real property for the payment of property taxes. The DLGF must prescribe the form of the petition; determine the information required on the form; and notify the county treasurer of the DLGF's determination on the petition not later than 10 days after receipt of the petition. As a result of this bill, the DLGF will receive petitions from county treasurers asking the DLGF to establish a schedule of installment payments for property taxes. The DLGF must also respond to the petitions. The DLGF will incur administrative expenses as a result of these provisions. However, the DLGF should be able to absorb any additional administrative costs resulting from these provisions given its current resources and budget.

Certified Assessed Value: If the amount billed for property taxes is reduced by using the total billed assessed value to calculate tax rates (see Explanation of Local Revenues), then the state could experience a savings in PTRC and Homestead Credits. The amount of PTRC and Homestead Credit reductions under this provision would be difficult to estimate. This proposal would first be effective for taxes paid in 2004. When final values are certified for 2004 tax rate calculations, many appeal issues from 2003 will probably have been dealt with and would no longer be an issue. Still, there will be appeals that have not been settled and even new appeals that were filed after the deadline for 2003 taxes. Also, the credits paid on any levy imposed to cover a previous year shortfall would reduce the credit savings. Over time, the savings would most likely equal the credit amount on between 0 and 2% of the certified levy.

Appeal Process: IC 6-1.1-15-1©) provides that the DLGF must prescribe the form as well as instructions for the petition for review to the county board of appeals. The DLGF is also required to prescribe a form for a response by the township assessor to the petition for review. This proposal eliminates these responsibilities.

Under the proposal the DLGF may not prescribe a form for a request for a preliminary conference, but must prescribe the form for writing down the results of the preliminary conference (IC 6-1.1-15-1(f) under the proposal). The DLGF may modify the form known as the "Form 130" to enable township assessors and taxpayers to report the results of a preliminary conference to the appropriate county board of appeals. Changing the DLGF's responsibilities relative to the prescription of forms should not have a significant impact on the DLGF.

Levy Excess Fund: If increased revenue to the Levy Excess Fund reduces the levies below the maximum levy as explained in *Explanation of Local Revenues*, then the state would realize a savings equal to 20% of the portion of the reduction attributable to real and nonbusiness personal property. However, for school general funds, the state would save 60% of the reduction attributable to business personal property and 68% of the portion of the reduction attributable to real property and nonbusiness personal property. This savings would come from a reduction in the payment of PTRC. In addition, the state is responsible for Homestead Credits equal to 20% of the net levy. Any levy reduction would also reduce the state's Homestead Credit liability. PTRC and Homestead Credits are paid from the Property Tax Relief Fund, which is annually supplemented by the state General Fund. Therefore, any PTRC or Homestead Credit savings would ultimately benefit the General Fund.

Based on the prior eight years of property tax distributions and certified levies, the possible savings to the Property Tax Replacement Fund would be between \$6.3 M and \$14.3 M annually.

Approval of Appointed Library Board Levies: If the review by an elected fiscal body reduces the levies below the maximum levy as explained in Explanation of Local Revenues, then the state would realize a savings equal to 20% of the portion of the reduction attributable to real property. This savings would come from a reduction in the payment of PTRC. In addition, the state is responsible for Homestead Credits equal to 20% of the net levy. Any levy reduction would also reduce the state's Homestead Credit liability. PTRC and Homestead Credits are paid from the Property Tax Relief Fund, which is annually supplemented by the state General Fund. Therefore, any PTRC or Homestead Credit savings would ultimately benefit the General Fund.

Provisional Property Tax Statements: This bill provides that if the county auditor or 50 property owners request a waiver of the provisional tax statement requirements, the DLGF must provide notice of a hearing concerning the request. After the hearing, the DLGF may waive the use of a provisional tax statement for a particular assessment date under certain conditions. The State Board of Accounts (SBA) must approve the form of the provisional statement. The provisional statement must be based on 90% of the tax liability. The DLGF may permit the county treasurer to issue a reconciling statement that adjusts the amount of the November installment that was specified in the provisional statement. The DLGF may adopt emergency rules to provide a methodology for a county treasurer to issue provisional statements. The above provisions may increase administrative expenses to the DLGF; however, it is assumed that the DLGF will be able to absorb any additional administrative expenses given its current budget and resources.

Qualifications of Assessors: The bill clarifies that money in the Assessment Training Fund may be used for the assessor examination and certification program. This provision also makes the fund non-reverting.

Deduction/Credit Filing Extension: Under current law, an application for a property tax deduction or homestead credit must be filed by May 10th to be effective for taxes paid in the following year. Under this proposal, a taxpayer would be entitled to a deduction or homestead credit for taxes paid in 2004 if the application is filed by December 15, 2003, and the taxpayer meets all other eligibility requirements. Under current law, these deductions and credits would not be effective until taxes are paid in CY 2005. This

provision would have the effect of allowing these deductions and homestead credits to become effective one year early.

Based on available 2003 county abstract data and 2003 property tax parcel record data compared with Census estimates for owner-occupied housing, it was estimated that as many as 5.7%, or 95,000 homeowners, may not have filed for the Homestead Credit. The resulting additional homestead credit for CY 2004, assuming that all 95,000 homeowners file for the credit, is estimated at \$12.1 M. **The additional expense by fiscal year is estimated at \$4.0 M in FY 2004 and \$8.1 M in FY 2005.**

(Note: These estimates were based on data from a small number of counties and is subject to change as more data is received.)

Assessment Software: The DLGF must study the feasibility of creating uniform and common computer software programs for property tax assessment purposes, including computer software programs that allow the sharing and transfer of assessment data in a uniform format by all counties. The DLGF must report the results of the study to the Commission on State Tax and Financing Policy before September 1, 2004. The DLGF will incur expenses as a result of the proposal. The specific impact is indeterminable and will depend on the nature and extent of the study. However, the bill provides that upon approval of the Governor, the Budget Agency may authorize the payment of expenses incurred by the Department in conducting the study from amounts allotted from the Departmental and Institutional Emergency Contingency Fund. The fund was appropriated \$9.6 M for the 2004-2005 biennium. For FY 2004, no funds have been expended from the Fund.

Taxpayer Notice: Under this proposal, the DLGF would be required to provide to each county a statement containing the amount of additional 2004 property tax that the average homeowner in the county would have paid without the tax mitigation measures enacted by the General Assembly. The DLGF must do this by February 25, 2004.

The DLGF could compute an estimated additional net tax liability for homesteads using parcel record data provided by the counties for taxes paid in 2003. Because of late 2003 tax billings, this data may not be available in a timely fashion for all counties.

This would be a large task to complete for all 92 counties in a very short amount of time. The DLGF might incur some additional expenses in CY 2004 for temporary employees and computer consultants in order to make these calculations in a timely manner.

Special Master: The taxpayer may appeal a determination of the DLGF to the Indiana Board of Tax Review. The Board may develop a form for petitions that outlines the appeal process. The Board may contract with, appoint, or otherwise designate special masters to conduct evidentiary hearings and prepare reports. Each contract with a special master must specify the compensation and entitlement to reimbursement for expenses, which will be paid from the county property reassessment fund. The special masters must set a hearing date, give notice of the hearing, and mail to the taxpayer, the DLGF, the township assessor, and the county assessor. The special master must then conduct a hearing and make evidentiary findings and file a report with the Indiana Board of Tax Review. At the hearing the DLGF must present its evidence that the reassessment is correct. The Indiana Board may consider the special masters report; dismiss the petition; make a final determination without conducting a hearing or any further proceedings; and incorporate the findings of the special masters into the Board's finding in resolution of the appeal. The Indiana Board may adopt rules to establish procedures and deadlines. These provisions will increase costs to the Indiana Board by an indeterminable amount. The impact will depend on the number and nature of appeals.

Petition and Remonstrance: The State Board of Accounts could incur some additional expense in designing and delivering the petition forms to the county auditor. The impact would probably be minor and could be funded within the existing budget.

Property Tax Study: This bill requires the Commission on State Tax and Financing Policy (CSTFP) to study the elimination of property taxes as a source of funding for local government services along with alternative sources of revenue that might be used to replace property taxes. The study is to be completed no later than December 31, 2005. The CSTFP is a statutory commission which consists of five members. It operates under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees ranging from \$6,000 to \$9,000 per interim for committees with fewer than 16 members. The CSTFP is staffed by the Legislative Services Agency.

Homeowner's Property Tax Deduction: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the changes to this deduction. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues:

Bond Bank (IBB) obligations which are secured by tax anticipation time warrants or notes. The short-term investment of state funds in IBB obligations would help reduce the cost of issuing additional rollover funding for the local units of government who are unable to repay their current loans by December 31, 2003. Potential investment of state funds include funds in the Common School Fund, the Public Depository Insurance Fund, and any other fund under the authority of the State Treasurer.

Background: Currently the IBB has \$1.4 B in outstanding bonds for approximately 221 local units of government who borrowed funds in anticipation of their 2003 property taxes. Due to the delay in getting property tax bills out for the 2002-2003 reassessment, it is anticipated that some local units may not be able to repay their loans which are due on December 31, 2003. Local units who have not received their final settlements for the 2003 property taxes have 3 options available to them to facilitate repaying the IBB loans. First, they could borrow from other local funds or reserves within the county. Second, they could also borrow funds from another financial institution. Finally, they have the option to participate in a rollover bond issue with the IBB.

Based on a survey conducted by the IBB, 104 local units of government indicated that they may need to participate in a rollover bond issue due to the delay in the collection and final settlement of the 2003 property tax bills. This represents approximately \$426 M in outstanding loans which would need to be rolled over into another bond issue. Investment of state funds in the IBB rollover issue will reduce the cost of the underwriter fees and allow more flexibility in the repayment of these new loans.

The total fund equity in the Common School Fund at the end of FY 2003 was \$498.3 M. There are potentially \$200 M of this reserve which may be available for short-term investments in the IBB rollover bond issue. The Treasurer's Office is currently evaluating other fund balances which may be available for this investment option.

DLGF Takeover of Assessment: The DLGF or contractor may petition the Indiana Tax Court to order local assessing officials to provide information. The Tax Court may order the official to provide information. If

a local official is found to be in contempt of the Tax Court, the defendant may be adjudged to pay a fine of at least \$50, or to be imprisoned for contempt. Civil fines would be deposited in the state General Fund. Also, an official who fails to provide information requested commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Three Appraisal Methodologies for Rental Properties: This provision may affect the amount of revenue that is generated for the state property tax. The state levies a small tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds.

Taxpayer Notice: Under current law, county treasurers have been required to include a notice with 2003 property tax bills. This notice must include a statement regarding reassessment and actions taken by the General Assembly to mitigate the effects of reassessment. The county must also provide a comparison of (1) each taxpayer's actual property tax liability and (2) the exact amount that the tax liability would have been in the absence of the passage of HEA 1001-2002(ss).

Under this proposal, the notice would be mailed only to owners of homestead property and would include an estimate of the additional property taxes that the average homeowner in the county would have paid without the tax mitigation enacted by the General Assembly. The treasurer would be required to include the statement with 2004 property tax bills.

The DLGF would provide the form to county treasurers within 10 days after the date that 2004 budgets and tax rates are certified. Budgets and rates must be certified by February 15. The DLGF could compute an estimated average 2004 net tax for homesteads (both with and without mitigation) using parcel record data provided by the counties for taxes paid in 2003. Because of late 2003 tax billings, this data may not be available in a timely fashion for all counties.

Homeowner's Property Tax Deduction: A noncode provision of the bill would increase the maximum allowable homeowner's property tax deduction under the Adjusted Gross Income (AGI) Tax in tax year 2004 *only*. The increase in the maximum allowable deduction would apply only to homeowners who pay any or all of their 2002 Pay 2003 property taxes in 2004. This provision will not result in additional revenue loss to the state, but will shift revenue loss that would otherwise occur in FY 2004 (attributable to tax year 2003 AGI tax payments) to FY 2005 (attributable to tax year 2004 AGI tax payments). The precise revenue loss that could potentially be shifted is indeterminable. If 25% of 2002 Pay 2003 property taxes are paid in 2004, this provision could potentially shift approximately \$12.0 M in revenue loss from FY 2004 to FY 2005.

Background: Under the bill, a taxpayer would be entitled to deduct 2002 Pay 2003 property taxes from their tax year 2004 AGI, provided the property taxes are paid in 2004. The maximum allowable deduction for the deferred taxes would be equal to the lesser of:

- (1) The 2002 Pay 2003 property taxes paid in 2004; or
- (2) \$2,500 minus the amount of the homeowner's property tax deduction claimed by the taxpayer in tax year 2003.

The 2004 deduction for deferred property taxes would be in addition to the homeowner's property tax deduction the taxpayer would be entitled to in tax year 2004 for the 2003 Pay 2004 property taxes. For

example, if a homeowner's 2002 Pay 2003 property taxes are \$2,000, and the homeowner is billed for \$1,000 in 2003 and \$1,000 in 2004, and the homeowner's 2003 Pay 2004 property taxes total \$2,500, they would be able to claim the amount of 2003 taxes deferred to 2004 in addition to their current 2004 deduction. Under current statute, the homeowner could deduct \$1,000 from tax year 2003 AGI and \$2,500 from tax year 2004 AGI. Under the bill, the homeowner would be entitled to an additional deduction of \$1,000 from 2004 AGI for the 2002 Pay 2003 taxes billed in 2004. This additional deduction is limited to the maximum allowable in 2003.

As of November 20, 2003, property tax bills have been mailed out in 52 (about 55%) counties. For tax year 2001, approximately 1.28 M income tax filers deducted about \$1,369.7 M in homeowner's property taxes from their AGI. This resulted in a revenue loss of approximately \$46.6 M. It is estimated that the deduction could potentially total \$1,409.2 M in tax year 2003, assuming all 2002 Pay 2003 property taxes are paid in 2003. This would result in a revenue loss totaling about \$47.9 M.

Explanation of Local Expenditures:

DLGF Takeover of Assessment: For all counties except Lake County, with respect to the 2003 general reassessment, if a state-conducted reassessment is ordered, the reassessment duties of a reassessment official in the county are limited to providing the DLGF with support and information. Township and county officials must make available all data, records, maps, parcel record cards, forms, computer software systems, computer hardware systems, and other information related to the reassessment of real property in the county. The information must be provided at no cost to the DLGF.

The county must pay the cost of a contract for reassessment from the county's property reassessment fund. A contractor must file with the county auditor a duplicate copy of the bill submitted to the DLGF along with proof of the Department's approval. Upon receipt, the county auditor must immediately certify that the bill is true and correct without further audit, publish the claim, and submit the claim to the county executive. The county executive must allow the claim, as approved by the DLGF, and the county auditor must immediately issue a warrant or check for the full amount of the claim. Payment of the claim is not subject to remonstrance and appeal.

Three Appraisal Methodologies for Rental Properties: These provisions may result in additional administrative expenses to local assessors to the extent that the officials may have to perform additional calculations in order to determine the assessed value of rental property. This impact is not expected to be significant. However, the assessor and the taxpayer can agree on using one approach.

Electronic Submittal of Sales Disclosure Forms: This bill provides that after December 31, 2004, the sales disclosure forms and data forwarded by local assessors to the DLGF and LSA must be provided in electronic format. Currently, the county assessor must forward the sales disclosure form or data to the DLGF and the LSA in electronic format if possible. It is possible that submitting the data electronically, as opposed to printed form, will change expenditures for local units. The change in expenditures may vary by county and will depend on how local units are currently collecting and submitting the information.

Installment Payments and Penalty Waivers: County treasurers will likely petition the DLGF to allow for payment of property taxes in installments. Counties should be able to absorb any additional administrative costs resulting from these petitions given their current resources and budgets. The specific impact is indeterminable, would vary by county, and would depend on what actions, if any, the county took during the preceding year to adjust for reassessment. Paying property taxes in installments could also delay the receipt

of revenues by local units which may in turn result in additional interest charges paid on loans taken out by local units because their revenue distributions are delayed.

Regarding waivers of late penalties, county treasurers will likely petition the DLGF. Counties should be able to absorb any additional administrative costs resulting from these petitions given their current resources and budgets.

Appeals Process: IC 6-1.1-9-1 provides that if a township assessor, county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year, the official or board must give written notice of the change in assessment. The notice must contain a description of the taxpayer's right to file a petition for review with the county property tax assessment board of appeals. The proposal removes the petition process and replaces it with a request for a preliminary conference to review the assessment. Consequently, the assessing official would now notify the taxpayer of the right to request a preliminary conference instead of the right to file a petition. This provision should have no significant fiscal impact.

IC 6-1.1-15-1 provides that in order to appeal a current assessment and have a change effective for the most recent assessment date, a taxpayer must file a petition with the county or township assessing official. The official then notifies the county auditor that this assessment is under appeal. Under the proposal, the taxpayer must request in writing a preliminary conference with the assessing official, and the official notifies the county auditor. After the conference, the official would complete a form outlining the results of the conference and forward the report to the county board of appeals. The preliminary conference must be held before a review by the county board of appeals. If after the conference, the taxpayer and assessor are in agreement, the results would be reported to the county board of appeals and the board would not have to conduct a review. However, if there is disagreement, then the board must hold a review and the county and township officials must attend. These provisions could decrease the number of reviews held before the board which could save administrative expenses for local officials involved with the assessment process because some issues could be resolved before a review by the board is necessary.

Because the form for petition is eliminated, the county assessor and county board of review will no longer have to assess petitions filed to determine compliance, return forms that are incomplete and defective, and then process corrected petitions. This provision should reduce expenditures.

Automatic Refunds for Successful Appeals: The county auditor must determine the amount of the refund for successful assessment appeals without the taxpayer having to file a claim and without the board of county commissioners having to allow the claim. This provision should reduce administrative expenses to the extent that it streamlines the current process.

Provisional Property Tax Statements: For tax years beginning with the 2003 pay 2004 assessment, the county treasurer may use a provisional statement based on 90% of tax liability if the county auditor fails to deliver the abstract before March 16 of the year following the assessment date. The county treasurer must give notice of the provisional statement by publication in a form prescribed by the DLGF. The county auditor or 50 property owners may request that the DLGF waive provisional tax statement requirements for a particular assessment date.

As soon as possible after the receipt of the abstract, the county treasurer must mail reconciling statements. If, upon receipt of the abstract, the county treasurer determines that it is possible to complete the transmittal of the reconciling statement at least 30 days before the due date of the November installment specified in the

provisional statement, the county treasurer may request in writing that the DLGF permit the county treasurer to issue a reconciling statement that adjusts the amount of the November installment that was specified in the provisional statement. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments in municipalities in the county other than the county seat. The above provisions will affect local expenses; the specific impact, however, is indeterminable and will vary by county.

Qualifications of Assessors: This bill provides that each county assessor and each elected assessor who has not attained a Level II certification must employ a Level II assessor-appraiser. Each elected county assessor, township assessor, or elected trustee-assessor must attain Level I certification within one year after taking office and attain Level II certification within two years after taking office. A person who does not comply with this requirement forfeits the assessor's or trustee-assessor's office. The fiscal impact of these provisions is indeterminable and will vary from office to office. Requiring certain qualifications could result in the local district paying travel expenses for training or in an increase in compensation for the assessing official.

Four counties—Newton, Crawford, Perry, and Union—did not appear to have a Level II assessor-appraiser at the county level. About 460 townships had staff certified at Level II. Approximately 125 vendors are Level II certified. During the most recent reassessment, for taxes payable in 2003, 64 counties contracted with vendors to perform some portion of the reassessment function.

Deduction/Credit Filing Extension: There are 10 counties that currently provide a locally funded homestead credit. These counties include Allen, Madison, Marion, Miami, Monroe, Perry, St. Joseph, Spencer, Tippecanoe, and Vanderburgh.

If additional taxpayers in these 10 counties receive the state Homestead Credit in CY 2004 as a result of this provision, they will also receive the local homestead credit. The additional local homestead expense for all 10 counties is estimated at about \$2.7 M.

This local homestead credit is paid for with County Option Income Tax (COIT) proceeds. The amount of COIT revenue available for distribution to local civil taxing units would be reduced by the amount spent for local homestead credits. The additional \$2.7 M in local homestead credit expense would, therefore, reduce distributions to the civil taxing units in these counties in CY 2004.

Special Masters: The taxpayer may appeal a determination of the DLGF to the Indiana Board of Tax Review. The Board may contract with, appoint, or otherwise designate special masters to conduct evidentiary hearings and prepare reports. Each contract with a special master must specify the compensation and entitlement to reimbursement for expenses, which will be paid from the county property reassessment fund. Payments from the county reassessment fund may not exceed \$500,000. The special masters must set a hearing date, give notice of the hearing, and mail to the taxpayer, the DLGF, the township assessor, and the county assessor. At the hearing the township assessor and the county assessor may attend. These provisions will increase costs to the counties by an indeterminable amount. The impact will depend on the number and nature of appeals.

Petition and Remonstrance: The bill does not allow a political subdivision to promote a position on the petition or remonstrance by (1) allowing facilities to be used to promote a position unless equal access is provided to the opposition, (2) make expenditures from a fund controlled by the political subdivision except to explain the project, and (3) use employees during normal working hours or paid overtime. The impact is unknown but would probably be a reduction in expenditures.

Explanation of Local Revenues:

DLGF Takeover of Assessment: If money in a county's property reassessment fund is insufficient to pay for a reassessment, the DLGF may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the reassessment.

If the county fails to pay the contractor, the Treasurer of State will pay the contractor from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the Property Tax Replacement Fund or distribution of admissions taxes or wagering taxes.

Three Appraisal Methodologies for Rental Properties: Beginning with taxes paid in 2006, the bill provides that real property that is regularly rented and has more than four units must be assessed at the lowest valuation that results from the use of three methodologies: cost approach, sales comparison, and income capitalization. The preferred valuation method for rental properties with less than five units and rented mobile homes is the gross rent multiplier method. This provision may result in a change in the assessed value tax base which would cause a shift of the property tax burden from the taxpayers receiving reduced assessed values to all taxpayers in the form of an increased tax rate. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the reduced assessed value amount applicable to that fund.

Installment Payments and Penalty Waivers: Regarding the payment of property taxes in installments, allowing for payment of property taxes in installments could reduce penalties assessed for late payments. The specific impact is indeterminable and will vary among taxing districts. Penalties collected from a taxpayer are credited to the appropriate taxing units and are distributed in the same manner as other property taxes—based on a unit's levy as a proportion of all levies within the taxing district. Paying property taxes in installments could also reduce interest earned on taxes that would have been collected sooner under the current system. There is a potential for interest earnings lost between May 10 of the year in which the taxes are due and June 30 of the subsequent year.

Regarding the waiver of late penalty payments, under current law, if an installment of property taxes is not completely paid on or before the due date, a penalty equal to 10% of the amount of delinquent taxes is added to the unpaid portion. This bill allows the DLGF to accept waivers of penalty payments for property taxes on real property for which a general reassessment or an annual assessment adjustment caused a tax increase from the preceding year of a percentage determined by the county treasurer. These provisions could reduce the amount of revenue collected for late payment penalties. The specific impact is indeterminable and will vary among taxing units. Penalties collected from a taxpayer are credited to the appropriate taxing units and are distributed in the same manner as other property taxes—based on a unit's levy as a proportion of all levies within the taxing district.

Maximum Tax Rates: This bill would make adjustments to the property tax rates mentioned in multiple code sections that deal with (1) maximum property tax rates and (2) appropriations or transfers based on the amount of money generated by a specified tax rate. The levies and appropriations certified under the affected sections are relatively small. The statutory rates for most of the levies governed by rate caps are already adjusted for reassessment under current law.

After a general reassessment (or an annual AV adjustment beginning with taxes paid in 2006), the increase in assessed value can cause an increase in certain levies or appropriations if they continue to be based on the unadjusted maximum statutory rate. This bill would result in an adjustment to each of these maximum tax

rates so that the available levy or appropriation would be unaffected by changes in AV due to reassessment. These levies and appropriations would continue to grow by actual added property value.

The bill includes language to adjust the 2003 base rate as if this bill was in effect for 2003 taxes. The bill would first take effect with property taxes paid in CY 2004. If a taxing unit increased a levy or appropriation in 2003 because of the new assessed value under reassessment, this bill would have the effect of reducing that levy or appropriation for 2004. Any reduction, however, would be equal to the amount necessary to bring the levy or appropriation back in line with the maximum amount allowed in CY 2002 plus actual AV growth.

Maximum Levies: Under current law, a civil taxing unit's maximum permissible levy grows each year by the six-year average increase in Indiana nonfarm personal income. The annual increase is limited to 6%, although a taxing unit may appeal to the state's Local Government Property Tax Control Board for a larger increase in the maximum levy if the unit's AV growth is 3% greater than the statewide average growth in AV.

This proposal would change the calculation for the maximum levies of units, the Family and Children Fund, and the Children's Psychiatric Services Fund. Beginning in 2004, these maximum levies would be based on the previous year's actual levy (subject to the maximum levy) rather than the maximum levy itself. This change removes the previously unused portion of maximum levies and eliminates any "banking" of unused levy authority in the future. The total 2003 maximum levy authority for civil units and the Family and Children Fund is \$2,818 M. This bill would reduce those maximum levies for 2004 by about \$320 M. However, the actual levy would not be reduced below 2003 levels.

In addition, this bill clarifies current statute that the school transportation maximum levy computation begins with the previous year's certified levy as opposed to the previous year's maximum levy. Using the certified levy as a base would remove an estimated \$31 M from school transportation maximum levies. However, the actual levy would not be reduced below 2003 levels.

Certified Assessed Value: Under current law, the county auditor may keep the AV of certain property in bankruptcy and assessments under appeal separated from other property on the tax duplicate. This AV is not considered in the county auditor's certification of AV for use in fixing tax rates.

When assessed value is removed from the AV certification, the tax rate is increased in order to generate the desired certified levy. When tax bills are calculated, the tax rate is applied to all AV, including the amount removed from certification. This generally results in a larger charged levy (or abstract levy). Some of this abstract levy may not be collected due to successful appeals. If the amount of AV removed from certification is too low, then the tax rate is set too low and the unit suffers a revenue shortfall. However, if too much AV is removed, then the tax rate is set too high, generating too much property tax revenue. Taxing units may spend up to 102% of their certified levies. Collections over 102% of certified levy must be deposited into the Levy Excess Fund. Money in this fund may be used to pay tax refunds and to reduce future tax levies.

This bill would remove county auditors' authority to reduce the certified AV to compensate for appeals. The inclusion of AV that is successfully appealed would cause some tax rates to be set too low, resulting in tax shortfalls. However, the bill also allows civil units and school corporations to seek an excessive levy in the following year to compensate for shortfalls caused by successful appeals. Under current law, all excessive levy appeals must be filed by September 19th. This bill would allow taxing units to file appeals for excessive levies due to shortfalls by December 30th each year.

The amount of reduced tax billings under this provision would be difficult to estimate. This proposal would

first be effective for taxes paid in 2004. When final values are certified for 2004 tax rate calculations, many appeal issues from 2003 will probably have been dealt with and would no longer be an issue. Still, there will be appeals that have not been settled and even new appeals that were filed after the deadline for 2003 taxes. Also, any levy imposed to cover a previous year shortfall would reduce the levy savings. Taxing units would rarely have any collections over 100% of the certified levy under the proposal, but certified levies would increase because of the excessive levies for shortfalls. Over time, the reduction in levies would most likely equal between 0 and 2% of the certified levy.

Elimination of Appeal for Alternate Use of CAGIT PTRC: The elimination of the appeal would reduce the revenue to local units and increase the local PTRC. For CY 2003, the DLGF approved 19 PTRC reallocation appeals valued at \$2,973,174. The DLGF approved 11 appeals worth \$951,479 in CY 2002. This would apply to property taxes due and payable after December 31, 2004, so it could affect local revenues and PTRC beginning in CY 2005.

Levy Excess Fund: Under current law, if the actual property tax distribution exceeds the certified levy, a local unit may retain an amount equal to 2% of the certified levy in the fund and deposit the amount over 102% of the certified levy in the Levy Excess Fund. The DLGF may require a civil taxing unit to include the amount in the Levy Excess Fund when setting the unit's budget.

The bill requires the amount that the actual property tax distribution exceeds the certified levy to be deposited in the Levy Excess Fund and requires the unit to use the amount in the Levy Excess Fund when setting the unit's budget. The amount that the actual property tax distributions have exceeded a civil taxing unit's budget has varied over the last eight years. The following chart shows the amount that property tax distributions exceeded certified levies, the amount units could retain, and the amount that was required to be deposited in the Levy Excess Fund.

	Amount PT Dist exceeded Cert Levy	Amount Unit could Retain	Amount Deposited in Levy Excess
1995	73,385,204	47,008,275	26,376,929
1996	45,750,986	25,225,183	20,525,803
1997	107,720,663	48,072,942	59,647,721
1998	39,824,665	30,705,905	9,118,760
1999	51,280,112	36,174,394	15,105,718
2000	58,286,745	45,979,060	12,307,685
2001	44,961,095	34,554,098	10,406,997
2002	33,105,446	21,193,208	11,912,238

The bill would increase the revenue into the Levy Excess Fund. Based on the prior eight years of property tax distributions and certified levies, the increase in revenue to the Levy Excess Fund would be between \$21.2 M and \$48.1 M annually.

Approval of Appointed Library Board Levies: Under current law, fiscal bodies of cities, towns, and counties

must review and adopt budgets and tax levies for taxing units that (a) are not comprised of a majority of officials who are elected to serve on the governing bodies and (b) are proposing an increase in the tax levy that is greater than 5%. This provision does not currently apply to library boards. The fiscal bodies that review and adopt the budgets are currently prohibited from reducing the proposed tax levy to an amount that is less than the maximum levy.

Under this proposal, any budget proposed by an appointed library governing body would have to be reviewed by an elected fiscal body. There are 239 library boards.

The added review and the provision that would allow the elected bodies to reduce the appointed bodies' levies below the maximum levy could slow the growth of, or reduce, some levies. A reduction of the property tax levy would mean a reduction of revenues for the taxing unit.

Provisional Property Tax Statements Requirements: This bill increases the amount required for future provisional tax bills from 70% to 90% of the prior year's billing. Increasing the amount of the provisional statement from 70% to 90% of the prior year's billing will result in local units receiving at least 20% of the revenue earlier than what they would have with a 70% requirement.

Validation of Actions Taken by the DLGF: The proposal validates and legalizes action taken by the DLGF prior to January 1, 2004, relative to allowing a taxpayer to petition more than 45 days after notice of a change in assessment; allowing the payment of property taxes in installments that are not already provided for; and waiving all or part of a late penalty. These provisions will not have an impact on local revenue to the extent that they put into statute current practices.

Deduction/Credit Filing Extension: The property tax deductions that would be available for taxes paid in 2004 under this proposal if applied for by December 15, 2003, include the mortgage, aged, blind/disabled, and veterans deductions. The \$35,000 standard deduction is also included and is automatic when the homeowner receives the Homestead Credit.

This analysis assumes that the percentage of taxpayers who qualify for these deductions and who would benefit from this proposal is the same (5.7%) as the number that could benefit under the homestead credit portion of the bill. If all of the eligible taxpayers file for these deductions, there would be an estimated 6.1% increase in the deductions along with an additional 95,000 standard deductions at \$35,000 each and would result in a loss of assessed value estimated at \$3.59 B.

Additional deductions reduce the assessed value tax base. This causes a shift of the property tax burden from the taxpayers receiving the deductions to all taxpayers in the form of an increased tax rate. An additional \$3.59 B in deductions would cause a \$0.035 increase in the statewide average gross tax rate and would shift approximately \$70 M to other taxpayers. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

Petition and Remonstrance: The decrease in the number of signatures to begin the petition or remonstrance process could increase the number of projects that might be defeated by the petition or remonstrance process. The property tax saving would depend on the number and value of the projects that are defeated in the petition or remonstrance process.

State Agencies Affected: Indiana Bond Bank; State Treasurer; State Board of Accounts, Department of

Local Government Finance.

<u>Local Agencies Affected:</u> All local civil taxing units and school corporations; County auditors; Appointed Library Boards.

<u>Information Sources:</u> Indiana Bond Bank; 2002 and 2003 County Auditors' Abstracts; Local Government Database; Nancy Stassen, Director, Operations Division, and Pam Drinkard, Department of Local Government Finance.

Fiscal Analyst: Diane Powers, 317-232-9853; Bob Sigalow, 317-232-9859; Bernadette Bartlett, 317-232-9586; Chuck Mayfield, 317-232-4825; Jim Lander, 317-232-9869.